

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, July 24, 2003

The regular meeting of the Detroit Board of Police Commissioners was held on Thursday, July 24, 2003, at 3:00 p.m., at Police Headquarters, 1300 Beaubien, Rm. 328-A, Detroit, MI 48226.

ATTENDANCE

Board Members Present

Willie E. Hampton
Arthur Blackwell, II (ABS)
Erminia Ramirez
Edgar L. Vann, Jr.
Megan P. Norris (ABS)

Department Personnel Present

Chief Jerry A. Oliver, Sr.
AC Ella Bully-Cummings
AC Walter E. Shoulders
AC Tim Black
DC Pamela Evans
Insp. Gail Barnes
Insp. Donald Chalmers
Lt. Vicki Yost
PO Reggie Crawford
PO Irvette Reed
PO Martin Singleton
Civ. DC Pamela Evans

Board Staff Present

Dante' L. Goss, Executive Director
Denise R. Hooks, Attorney/Supv. Investigator
Arnold Sheard, Interim Chief Investigator
Ainsley Cromwell, Supervising Investigator
Damon Nunn, BPC Investigator
E. Lynise Bryant-Weekes, Personnel Director (ABS)
Insp. Morris Wells, Personnel Bureau

RECORDERS

Jerome Adams
Felicia Hardaway
Kellie Williams

OTHERS PRESENT

Ms. Walters
Ron Scott
Ms. Wilkes
DPOA Atty. Thomas Zulch
Ruth Tyson
Lawrence Dumas

1. CALL TO ORDER

Chairperson Hampton called the regular meeting of the Detroit Board of Police Commissioners to order at 3:25 p.m.

2. APPROVAL OF MINUTES

Chairperson Hampton stated the following Minutes will be tabled until the next Board meeting:

- **Thursday, July 10, 2003**

MOTION: Commissioner Hampton made the motion to approve the Minutes listed above.

SECOND: Commissioner Vann seconded the motion.

VOTE: All in attendance voted in the affirmative.

- **Thursday, July 17, 2003**

MOTION: Commissioner Hampton made the motion to approve the Minutes listed above.

SECOND: Commissioner Vann seconded the motion.

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

Office of the Chief Investigator Standard Operations Procedures (S.O.P.)

MOTION: Commissioner Hampton made the motion to approve the S.O.P.

SECOND: Commissioner Vann seconded the motion.

VOTE: All in attendance voted in the affirmative.

4. SECRETARY REPORT – EX. DIR. GOSS

CITIZEN COMPLAINTS RECEIVED

	<u>This Week</u>	<u>Year to Date</u>
Weekly Count of Complaints:	76	666
Weekly Count of Allegations:	159	1,223
Arrest	8	42
Demeanor	56	425
Entry	1	16
Force	14	97
Harassment	3	48
Procedure	59	402
Property	2	47
Search	1	33
Service	15	10

Pending Cases

As of July 23, 2003, the Office of the Chief Investigator (OCI) has a total of **666 pending cases**, which include **209 cases** with an age of 0-45 days, **38 cases** with an age of 46-60 days, **99 cases** with an age of 61-90 days, and **94 cases** with an age of 91-120 days, **200 cases** with an age of 121 days – 6 months, and **26 cases** with an age of 7-9 months.

2002

During the past week: 8 **Year to Date:** 584

5. CHIEF'S REPORT

DETROIT POLICE DEPARTMENT
MIND'N OUR BUSINESS

Board of Police Commissioners

The Detroit Police Department's mission is building a safer Detroit through community partnerships. Therefore, the following enforcement actions were conducted during the week of July 16th – 22nd, 2003:

ORGANIZED CRIME AND GANG DIVISION

The Conspiracy Intelligence, South-East, North-West and Vice Sections conducted two enforcement actions that resulted in (1) juvenile detained and (26) misdemeanor arrests. These enforcement actions resulted in the confiscation of 102.7 gram of marijuana and 40.7 grams of cocaine \$16,690.00. \$389.00 in U.S. currency and (12) vehicles were confiscated from these enforcement actions.

SEVENTH PRECINCT

On Wednesday, July 19, 2003, officers of the Seventh Precinct while on patrol observed a vehicle traveling at a high rate of speed almost causing an accident as the driver switched lanes. The officers initiated a traffic stop and upon further investigation observed a strong odor of intoxicants on the breathe of the driver. The officers then performed a field sobriety test (finger to nose and heel to toe), which he failed. The subject was arrested and conveyed to the Seventh Precinct without incident.

TWELFTH PRECINCT

On July 15, 2003, officers of the Twelfth Precinct responded to a police run on shots fired in the 300 block of Merton. As a result of their investigation, five (5) subjects were arrested without incident eight (8) guns and 14.9 grams of cocaine were confiscated.

Chief of Police Jerry A. Oliver, Sr.

6. PRESENTATION – PRISONER HANDLING

DC Evans introduced Lt. Vicki Yost from the Risk Management Bureau and stated that she is going to give a presentation for administering medications to prisoners.

Lt. Yost stated there were two major changes to the Prisoner Medication Program that started in February. The first one was, initially when prisoners were conveyed to Detroit Receiving Hospital, they would be issued a paper prescription that would go back to the precinct with them and then be taken to a Rite-Aid or a pharmacy in the precinct. This often results in long delays in prisoners getting medications, if the pharmacy closed we would have problems getting the medications, and it also required a use of staff that wasn't efficient.

Starting in February, the Prescription Drug Program has implemented with the cooperation of Detroit Receiving Hospital, where when our prisoners are discharged from the hospital, they are not discharged with 72 hours worth of medications, which is basically the length of time that they would be in our

custody and give us enough to hand them over to somebody else and have enough time to secure their prescriptions and guarantee their continuity of care. That results in the fact that now, when we pick up the prisoner from the hospital, we actually pick up the prescription. Compared to when we needed a car to pick up the prisoner and then another car to pick up the prescription, it is now one trip.

In the study that we did, the annually savings was over 9,000 manpower hours, which is equivalent to six more full-time officers on the street.

There was another significant medication medical issue that was addressed in terms of our psychiatric care. Initially, the old way of doing things, if we had a prisoner who needed psychiatric care, we would take them to the crisis center at the hospital to the crisis center, we would have to drop charges in order for them to get mental health treatment. That has changed now, to where the psychiatrist comes out from the crisis center and evaluates whether the person needs psychiatric care and then we don't have to drop charges, we can still prosecute and move forward with our case. Before, in order to send them to the crisis center we would have to drop those charges.

Those are the two significant changes. In relation to some of the operational changes that I am aware of, medicine cabinets have been installed in all of the precincts and including Detroit Receiving Hospital detail, so that they are secured. Several policies have been written regarding the distribution of medications. And the fact that when our prisoners leave our care that their medications are to be turned over with them or returned to them upon discharge from our custody.

Insp. Donald Chalmers from the 13th precinct. I was asked to explain what we do at the 13th Precinct. When a prisoner comes in with medication, we take the medication and we put it in a file cabinet that we have. We dispense the medication however the doctors tell us to. We make a blotter entry and at the precinct, the manual doesn't specifies it but we do it at the precinct, we put it into a separate book and it is much easier to follow. If you just put it into a blotter, then you are looking at a whole bunch of blotter entries and trying to figure out when the last time you gave a prisoner their medication. The manual stipulates that the officer in charge or his/her designee can dispense the medication or at the 13th Precinct we had a mix up once, so now it is just a supervisor.

Questions/Answers:

Comm. Vann asked how does a prisoner come in with medication? How do you assess what their medication needs are? How do you verify that?

Insp. Chalmers stated if they are arrested on the street and they have medication on them we don't allow them to use it. For example, if they say

they have a headache, we send them to the hospital and let the doctor write a prescription. We will fill the prescription at the hospital and then they are walked to a safe. It could be medication or asthma, heart problems or etc.

Comm. Vann asked what if a person has high blood pressure, what if they are a diabetic and they normally keep their medications at home, but they have been caught in the street. How do you verify what medications they need? What do you do?

Insp. Chalmers stated the doorman fills out a Prisoner Intake form. The form asks the prisoner do they have medical problems and what medications are they taking. If they are diabetic we send them to the hospital and the doctor makes the determination, but the doctor fills out the prescription and when the prisoner is discharged the prisoner is brought back to the precinct with the medication.

Comm. Vann stated I asked the question because as you know there have been plenty of cases where people have said that they were suppose to have certain medications or where not properly sent to where they needed to go when they needed them or etc. How does all of this relate to the consent decree and what is being asked of the department in terms of the handling of prisoners in the lockups.

DC Evans stated all of this specifically relates to the consent decree. In our technical assistance letters which preceded the issuance of the consent decree. Prisoner Care and Prisoner Medications were a large part of one of the technical assistance letters. That is why a lot of the policies that were change in terms of making sure that we had medications to segregate prisoner medication from anything else, that is part of the reason that that was implemented and part of the reason why we have separate refrigerators for prisoner care. All of these issues, including whether they get the right medication, if they ask for the treatment the fact that they do get actual treatment, is one of the issues that the consent decree covers. The consent decree further asks for the development of the Prisoner Care form, which will be something in addition to the detainee intake form, which deals specifically with only one prisoner's issues and what we do for a prisoner from the time they come into our care. Similar to when you go to a hospital everyone in the hospital has a chart, the Prisoner Care form addresses that and that is in development now. Cmdr. Best staff is developing that now. So all of those issues do play a very big role in the consent decree and many of them have already been addressed. There are some additional measures from the transition, from the technical assistance letters, to the consent decree, there are some things that have been added that we are addressing as a Department. We understand that it would require more vigilance and accountability in terms of making sure that that issue that you raised in terms of when they asked for treatment, that they would actually get it.

Comm. Vann asked as it relates to the handling of prisoners, is there any best guess of how we are going to be moving? What kind of policy ramifications, as it relates to this Board of Police Commissioners, should we expect from the Chief and from your office (Risk Management Bureau), or anyone that is involved in that particular aspect of it, so that we can also be on board in terms of making sure that we are in compliance with the DOJ.

DC Evans stated what we anticipate, I can't say for certain, but we have already looked at the consent decrees thoroughly. Specific parts of the consent decrees have sort have been separated off for people who deal with those policy issues. Planning is already looking specifically at the consent decree, not just on prisoner issues, but to see any policy changes that are required under the consent decree and they have already started working on that. So the process will probably be that Planning in consultation with the DOJ staff will make some changes. We will send those through channels, and they would go to DC Best staff, DC Best staff will look at them and interface with the monitor to make sure that this equals compliance under the consent decree. After we have gotten a policy that we are certain that would put us in compliance with the terms of the consent decree, that policy would be coming to the Board for approval and it would be published.

Chief Oliver stated it would probably be best if DC Best could come back in a few weeks and do a presentation for the Board, so that she could provide answers to some of those questions.

Comm/ Ramirez stated I am glad to hear that the process has changed In regards to given the prisoners their medications and that you take the prisoner straight to the hospital and let the doctor write the prescriptions.

DC Evans stated that is why we have been asking D.R.H. and they have been complying to a great extent for specific release instructions for medications and the continuity of care.

Comm. Ramirez asked where are they psychiatrists coming from that come to visit.

Lt. Yost stated the D.R.H. has a staff of psychiatrists at the Crisis Center.

Chairperson Hampton asked once you determine that a person that was just arrested is on medication, how much time does it take for you to get their medication to them?

Insp. Chalmers stated as soon as possible or within 30 minutes.

Chairperson Hampton asked does sit take less than 30 minutes to process

a prisoner?

Insp. Chalmers stated yes, if it is necessary, we will send the inside people.

Chairperson Hampton asked would the 30 minutes be the same if there was a change in the shift?

Insp. Chalmers stated yes.

7. DISCIPLINARY APPEALS – APPEALS SUBCOMMITTEE

Chairperson Vann chaired the Appeals Subcommittee:

In the Matter of Disciplinary Appeal, **Lieutenant Phillip Ferency, BPC 02-005D**, D.P.O.A. Attorney John J. Goldpaugh represented the petitioner, Attorney Nancy Ninowski, City Law Department represented the Department. The Appeals Subcommittee took the matter under advisement.

Atty. Ninowski stated my understanding is that this item will be dismissed because the officer has resigned from the Department.

Correction: Lt. Ferency retired from the Detroit Police Department, he didn't resign.

MOTION: Commissioner Vann made the motion to approve the recommendation for dismissal.

SECOND: Commissioner Ramirez seconded the motion.

VOTE: All in attendance voted in the affirmative.

In the Matter of Disciplinary Appeal, **Police Officer Vaughn Thornton, BPC 03-001D**, D.P.O.A. Attorney Thomas Zulch represented the petitioner, Attorney Nancy Ninowski, City Law Department represented the Department. The Appeals Subcommittee took the matter under advisement.

In the Matter of Disciplinary Appeal, **Police Officer Frank Scola, BPC 03-004D**, D.P.O.A. Attorney Thomas Zulch represented the petitioner, Attorney Nancy Ninowski represented the Department. The Appeals Subcommittee took the matter under advisement.

In the Matter of Disciplinary Appeal, **Police Officer Irvin Upshaw, BPC 03-005D**, D.P.O.A. Attorney Thomas Zulch represented the petitioner, Attorney

Nancy Ninowski represented the Department. The Appeals Subcommittee took the matter under advisement.

DPOA Atty. Zulch stated on behalf of Mr. Upshaw, we would like to withdraw the request for Oral Argument.

Atty. Ninowski stated no objection to the waiving of the Oral Arguments.

8. OTHER BUSINESS

Chairperson Hampton stated we have two suspensions without pay arguments.

Exec. Dir. Goss stated Officer McEntire and Officer Allen.

Officer McEntire

DPOA Atty. Zulch stated the facts that are stated in the suspension letter indicate that Officer McEntire and his partner believed the complaint to be striking his son with a belt. The complaint was reluctant to exit the vehicle when asked, which proceeded to alleged excessive force or assault and battery for which Officer McEntire has been charged. According to the Chief from a recent arbitration involving TSS Officers, he has indicated that to suspend an officer without pay, has made a determination by the Department that he can no longer perform his duties as a police officer and that he should no longer represent the police department. This case would be determined by whether the force used was reasonable and this is not a case where officers are terminated from the Department. Under the belief, clearly this officer was taking his actions and trying to come to the aid of a child. His misdemeanor criminal charge should not be grounds to suspend him without pay at this time.

Atty. Ninowski stated this is the Department's petition and this was read into the record on June 19th. The Department's position is that Officer McEntire engaged in egregious conduct on April 18, 2002, egregious conduct that warrants a suspension without pay. Officer McEntire and his partner responded to a custody dispute complaint. They resolved whatever the dispute was and they left that house. At the same time that they were leaving, the complainant and the complainant's 13-year old son and his 75-year old mother was leaving in the complainant's car. The 75-year old mother that was driving the car and the officers are behind that vehicle and they see the complainant and his son in the back seat and they are struggling and then they see what they think is a belt that the complainant is using on his 13 year old son and then they see school papers flying out of the window. So they initiate a traffic stop, that's no problem, I think they have probable cause to do that at that point. They order the complainant out of the vehicle, well the complainant was reluctant to leave the

vehicle, so Officer McEntire reaches into the vehicle and grabs the complainant by his neck and throws him onto the ground and takes his Department issued flashlight and starts hitting the complainant in the head while twisting his left arm behind his back. His partner ordered him to stop and finally had to pull him off the complainant who was being hit in the head with a flashlight. If that is not egregious conduct, I don't know what is, but certainly it is a violation of the law. More importantly, it is a violation of the public trust. These officers have a task and that task is one of the most important and that is the safety and welfare of the citizens and certainly this officer this officer did not exercise that on this day, in terms of any trust the Department has in him to perform his function there is none, so those are going back to the words that Mr. Zulch quoted the Chief saying in the T.S.S. case. We have no faith in this officer to perform his function as a Detroit Police Officer. Given such, the Department would respectfully request that you uphold or not contravene the suspension without pay.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

Officer Allen

DPOA Atty. Zulch stated because these suspensions were read into the record at prior meetings, but we came last week to argue these and Comm. Hampton was the only Commissioner present, so we delayed these. On behalf of Officer Allen, this incident involved was with him at the border and the charges are still pending and the suspension should be delayed to determine why defending charges are brought and whether these charges are misdemeanor or felony charges. It is my understanding this has yet to be determined. Clearly, we have an injured officer and at the very least his partner should not cut off his medical benefits, which the suspension would do. It's my understanding that the consideration of this nature was given to an inspector whose request for suspension was brought to this Board recently and was withdrawn by the City. Officer Allen serves this consideration and should not be suspended without pay at this time.

Atty. Ninowski stated the suspension petition that the Department presented to the Board was read into the record on July 10, 2003. As you know, this is the Department's petition for a suspension without pay and we are requesting this because the acts that were engaged on June 30, 2003, we believe are egregious or constitute egregious conduct. As you know, from the past arguments, these are case by case basis. So, whatever happened to another member of this Department, whether it be an Inspector or a Detroit Police Officer or DPOA member is immaterial. On June 30, 2003, Officer Allen and his friends went to Canada around 2:30 a.m., then they are stopped by Customs

and they are asked whether or not if they are United States citizens and asked to produce identification. Officer Allen's three friends did not have identification and Officer Allen identified himself as a Detroit Police Officer and showed his identification card. The Customs Officers asked Officer Allen, "Do you have a gun," and he said, "No I don't." The Customs Officers tell Officer Allen and his friends to go over to the immigration office so that you can verify your citizenship. They all go over to the immigration office to verify their citizenship. Officer Allen's three friends exit the vehicle and go into the immigration office, while Officer Allen sits in the car. The Customs Inspector approaches the vehicle because he doesn't understand why Officer Allen is still in the vehicle and he sees that Officer Allen is holding his leg. Officer Allen then says to him, "I think when I got out of the car, I tripped and I think I broke my leg." The Customs Inspector looks at his leg and says, "No, you have a gun shot wound that is spurting blood." Officer Allen says, "No, I don't." The Customs Inspector says, "Yes, you do." And it went on from there, until Officer Allen finally admitted that he had shot himself in the leg, when he was trying to hide his department issued weapon under seat of the vehicle. He did not realize he had a round in the chamber. Certainly, this is egregious conduct and I can go through the list of what constitute egregious conduct. It is a violation of the law and it is a violation of the Department's Rules and Regulations. In the Police Academy, everyone is told and there is a specific regulation on taking a weapon to Canada and you are forbidden from doing that. Most importantly the public's trust and the Department's trust in this officer to perform his police function is simply non-existence and not there. For those reasons, the Department would respectfully request that you not contravene the suspension without pay.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

9. ORAL COMMUNICATION FROM THE AUDIENCE

PO Martin Singleton voiced his concern in regards to Commander Moreland is harassing him and trying to get him fired, even though he has filed his retirement papers.

Chief Oliver asked Mr. Singleton to speak to AC Shoulders after the meeting.

Ms. Wilkes commended the DPD in assisting in placing protection around the voting polls and guarding the right to vote on behalf of Jackie L. Currie.

Lawrence Dumas stated he was assaulted by Detroit police officers on July 2, 2003. He also stated that he has noticed PCR's are being lost in the Department and he has seen some on the streets.

Chairperson Hampton asked him to speak to the Interim Chief Investigator Sheard after the meeting to file a complaint with the Office of the Chief Investigator.

Ruth Tyson asked is she could yield her two minutes to Reggie Crawford.

PO Crawford stated he has a complaint from PO Shawn Sims regarding the State Police harassing she and her family on July 4, 2003, in Lansing.

Chairperson Hampton stated we will appreciate a copy of the complaint.

Ms. Walters stated I think all citizens should be patrolling every neighborhood. Everyone should get together and solve the problems and not create them.

10. ANNOUNCEMENT OF NEXT MEETING

Thursday, July 31, 2003 @ 3:00 p.m.
Police Headquarters, Rm. 328-A
1300 Beaubien
Detroit, Michigan 48226

11. ADJOURNMENT

Meeting was adjourned at 4:26 p.m.

Respectfully Submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/kdw